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8 **BEFORE THE**  
9 **STRUCTURAL PEST CONTROL BOARD**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

11 In the Matter of the First Amended Accusation  
12 Against:

13 **FACTOR X TERMINATORS, INC., DAVID**  
14 **RECINOS, PRESIDENT/QUALIFYING**  
15 **MANAGER,**  
16 **19930 Lassen St,**  
17 **Chatsworth, CA 91311**

18 -and-

19 **145 S. Glenoaks Blvd, Ste. 442**  
20 **Burbank, Ca. 91502**

21 **Company Registration Certificate No. PR**  
22 **5228, Branch 2 and 3**

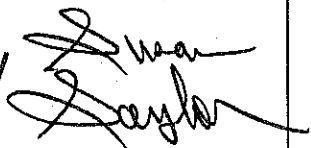
23 -and-

24 **DAVID RECINOS,**  
25 **19930 Lassen St,**  
26 **Chatsworth, CA 91311**  
27 **Operator License No. OPR 10926, Branch 2**  
28 **and 3**

Respondent

Complainant alleges:

**FILED**

Date 12/11/13 By 

Case No. 2014-26

**FIRST AMENDED ACCUSATION**

1 **PARTIES**

2 1. Susan Saylor ("Complainant") brings this First Amended Accusation solely in her  
3 official capacity as the Registrar/Executive Officer of the Structural Pest Control Board  
4 ("Board"), Department of Consumer Affairs.

5 **Factor X Terminators Inc.**

6 2. On or about January 31, 2007, the Board issued Company Registration Certificate  
7 Number PR 5228 in Branch 2 (general pest) and Branch 3 (termite) to Factor X Terminators, Inc.  
8 with David Recinos, ("Respondent or Recinos") as president and qualifying manager. In and  
9 between April 23, 2012 and May 1, 2012, and in and between September 21, 2012, and October  
10 19, 2012, Company Registration Certificate No. PR 5228 issued to Respondent was suspended  
11 due to Respondent's failure to maintain general liability insurance as required by Business and  
12 Professions Code section 8692.

13 **David Recinos**

14 3. On or about June 22, 2004, the Board issued Operator License Number OPR 10926 in  
15 Branch 3 (termite) to David Recinos. On or about February 2, 2006, the Board upgraded  
16 Operator License No. OPR 10926 to include Branch 2 (general pest) to David Recinos.  
17 Respondent's Operator license will expire on June 30, 2015, unless renewed.

18 **JURISDICTION**

19 4. This First Amended Accusation is brought before the Structural Pest Control Board  
20 ("Board"), Department of Consumer Affairs, under the authority of the following laws. All  
21 statutory section references are to the Business and Professions Code unless otherwise indicated.  
22 All regulatory section references are to Title 16 of the California Code of Regulations unless  
23 otherwise indicated.

24 5. Code section 8620 provides, in pertinent part, that the Board may suspend or revoke a  
25 license when it finds that the holder, while a licensee or applicant, has committed any acts or  
26 omissions constituting cause for disciplinary action or in lieu of a suspension may assess a civil  
27 penalty.  
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1           6.     Code section 8625 states:

2           “The lapsing or suspension of a license or company registration by operation of law or by  
3 order or decision of the board or a court of law, or the voluntary surrender of a license or  
4 company registration shall not deprive the board of jurisdiction to proceed with any investigation  
5 of or action or disciplinary proceeding against such licensee or company, or to render a decision  
6 suspending or revoking such license or registration.”

7           7.     Code section 8624 states, in pertinent part:

8           .....

9           “If the operator is the qualifying manager, a partner, responsible officer, or owner of a  
10 registered structural pest control company, the suspension or revocation may be applied to the  
11 company registration.

12          The performance by any partnership, corporation, firm, association, or registered company  
13 of any act or omission constituting a cause for disciplinary action, likewise constitutes a cause for  
14 disciplinary action against any licensee who, at the time the act or omission occurred, was the  
15 qualifying manager, a partner, responsible officer, or owner of the partnership, corporation, firm,  
16 association, or registered company whether or not he or she had knowledge of, or participated in,  
17 the prohibited act or omission.”

18          8.     Code section 8654 states, in pertinent part:

19          “Any individual who has . . . had his or her license revoked, or whose license is under  
20 suspension, or who has failed to renew his or her license while it was under suspension, or who  
21 has been a member, officer, director, associate, qualifying manager, or responsible managing  
22 employee of any partnership, corporation, firm, or association . . . whose company registration  
23 has been revoked as a result of disciplinary action, or whose company registration is under  
24 suspension, and while acting as such member, officer, director, associate, qualifying manager, or  
25 responsible managing employee had knowledge of or participated in any of the prohibited acts for  
26 which the license or registration was denied, suspended or revoked, shall be prohibited from  
27 serving as an officer, director, associate, partner, qualifying manager, or responsible managing  
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1 employee of a registered company, and the employment, election or association of such person by  
2 a registered company is a ground for disciplinary action."

### 3 STATUTORY PROVISIONS

4 9. Code section 8505.17 subdivision (c) states:

5 (c) Registered structural pest control companies shall prepare and submit to the county  
6 agricultural commissioner a monthly report of all pesticides used in that county. The report shall  
7 be on a form approved by the Director of Pesticide Regulation and shall contain the name and  
8 registration number of each pesticide, the amount used, and the number of applications made. The  
9 report shall be submitted to the commissioner by the 10th day of the month following the month  
10 of application. Each pesticide use report or combination of use reports representing a registered  
11 structural pest control company's total county pesticide use for the month shall have affixed  
12 thereto a pesticide use stamp issued by the board in the denomination fixed by the board in  
13 accordance with Section 8674 as the pesticide use report filing fee. The board shall provide for  
14 the sale of these stamps and for the refund of moneys paid for stamps which are returned to it  
15 unused. When a registered structural pest control company performs no pest control during a  
16 month in a county in which it has given notice pursuant to Section 15204 of the Food and  
17 Agricultural Code, the registered company shall submit a use report stating this fact to the  
18 commissioner. No pesticide use stamp is required on negative use reports.

19 10. Section 8516 of the Code states, in pertinent part:

20 "(b) No registered company or licensee shall commence work on a contract, or sign, issue,  
21 or deliver any documents expressing an opinion or statement relating to the absence or presence  
22 of wood destroying pests or organisms until an inspection has been made by a licensed Branch 3  
23 field representative or operator. The address of each property inspected or upon which work is  
24 completed shall be reported on a form prescribed by the board and shall be filed with the board no  
25 later than 10 business days after the commencement of an inspection or upon completed work.

26 "Every property inspected pursuant to subdivision or Section 8518 shall be assessed a filing  
27 fee pursuant to Section 8674.

1 "Failure of a registered company to report and file with the board the address of any  
2 property inspected or work completed pursuant to Section 8518 or this section is grounds for  
3 disciplinary action and shall subject the registered company to a fine of not more than two  
4 thousand five hundred dollars (\$2,500).

5 "A written inspection report conforming to this section and on a form approved by the  
6 board shall be prepared and delivered to the person requesting the inspection or to the person's  
7 designated agent within 10 business days of the inspection, except that an inspection report  
8 prepared for use by an attorney for litigation purposes is not required to be reported to the board.  
9 The report shall be delivered before work is commenced on any property. The registered  
10 company shall retain for three years all original inspection reports, field notes, and activity forms.

11 Reports shall be made available for inspection and reproduction to the executive officer of  
12 the board or his or her duly authorized representative during business hours. Original inspection  
13 reports or copies thereof shall be submitted to the board upon request within two business days.

14 The following shall be set forth in the report:

15 . . . .

16 (6) A foundation diagram or sketch of the structure or structures or portions of the  
17 structure or structures inspected, indicating thereon the approximate location of any infested or  
18 infected areas evident, and the parts of the structure where conditions that would ordinarily  
19 subject those parts to attack by wood destroying pests or organisms exist.

20 (7) Information regarding the substructure, foundation walls and footings, porches, patios  
21 and steps, air vents, abutments, attic spaces, roof framing that includes the eaves, rafters, fascias,  
22 exposed timbers, exposed sheathing, ceiling joists, and attic walls, or other parts subject to attack  
23 by wood destroying pests or organisms. Conditions usually deemed likely to lead to infestation  
24 or infection, such as earth-wood contacts, excessive cellulose debris, faulty grade levels,  
25 excessive moisture conditions, evidence of roof leaks, and insufficient ventilation are to be  
26 reported.

27 . . . .  
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1 (9) Indication or description of any areas that are inaccessible or not inspected with  
2 recommendation for further inspection if practicable. If, after the report has been made in  
3 compliance with this section, authority is given later to open inaccessible areas, a supplemental  
4 report on conditions in these areas shall be made.

5 (10) Recommendations for corrective measures.

6 . . . .

7 11. Code section 8518 states, in pertinent part:

8 When a registered company completes work under a contract, it shall  
9 prepare, on a form prescribed by the board, a notice of work completed and not  
10 completed, and shall furnish that notice to the owner of the property or the owner's  
11 agent within 10 working days after completing the work. The notice shall include a  
statement of the cost of the completed work and estimated cost of work not  
completed.

12 . . . .

13 Notices of work completed and not completed shall be made available for  
14 inspection and reproduction to the executive officer of the board or his or her duly  
authorized representative during business hours. Original notices of work  
15 completed or not completed or copies thereof shall be submitted to the board upon  
request within two business days.

16 12. Code section 8613 states, in pertinent part:

17 A registered company which changes the location of its principal office or any branch  
18 office or which changes its qualifying manager, branch supervisor, officers, or its bond or  
19 insurance shall notify the registrar in writing of such change within 30 days thereafter.

20 13. Code section 8641 states:

21 "Failure to comply with the provisions of this chapter, or any rule or regulation adopted by  
22 the board, or the furnishing of a report of inspection without the making of a bona fide inspection  
23 of the premises for wood destroying pests or organisms, or furnishing a notice of work completed  
24 prior to the completion of the work specified in the contract, is a ground for disciplinary action."

25 14. Code section 8642 states that "[t]he commission of any grossly negligent or  
26 fraudulent act by the licensee as a pest control operator, field representative, or applicator or by a  
27 registered company is a ground for disciplinary action."

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1 licensee shall also file his or her address for mailing purposes with the board and shall notify the  
2 board of any change in address within ten (10) days of such change.”

3 20. California Code of Regulations, title 16, section 1996.3 states, in pertinent part:

4 “(a) The address of each property inspected and/or upon which work was completed shall  
5 be reported on a form prescribed by the Board and designated as the WDO Inspection and  
6 Completion Activity Report Form (see Form No. 43M-52 Rev. 5/09) at the end of this section.  
7 This form shall be prepared by each registered company and shall comply with all of the  
8 requirements pursuant to Section 8516(b), and 8518.

9 . . . .

10 “(c) Failure of a registered company to report and file with the Board the address of any  
11 property inspected or upon which work was completed pursuant to Section 8516(b) or 8518 are  
12 grounds for disciplinary action and subject to a fine of not more than two thousand five hundred  
13 dollars (\$2,500).”

14 21. California Code of Regulations, title 16, section 1950 provides in pertinent part as  
15 follows:

16 “(a) Except as provided in section 1951, every licensee is required, as a condition to  
17 renewal of a license, to certify that he or she has completed the continuing education  
18 requirements set forth in this article. A licensee who cannot verify completion of continuing  
19 education by producing certificates of activity completion, whenever requested to do so by the  
20 Board, may be subject to disciplinary action under section 8641 of the code.

#### 21 **COST RECOVERY**

22 22. Section 125.3 of the Code states, in pertinent part, that a Board may request the  
23 administrative law judge to direct a licensee found to have committed a violation or violations of  
24 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
25 enforcement of the case.

#### 26 **DECEMBER 4, 2012 MEETING WITH RESPONDENT**

27 23. According to the Board’s database, Respondent failed to file any Wood Destroying  
28 Pests or Organism (“WDO”) activity reports since April 12, 2012. On or about September 11,



1 2012, Board inspector Donald Graves ("Graves") was instructed to perform an office records  
2 check to confirm or deny if Respondent had completed and failed to file with the Board any,  
3 WDO activity reports since April 12, 2012. After multiple attempts to contact Recinos, Graves  
4 finally arranged an appointment to meet Recinos on December 4, 2012 at Recino's storage site.  
5 However, thirty minutes prior to meeting Graves, Recinos called Graves and told him that he  
6 could not get the keys to his storage unit. Graves and Recinos subsequently met at a Starbucks  
7 location. During the meeting, Recinos signed a declaration under penalty of perjury which he  
8 gave to Graves indicating that "he (Recinos) had not done any work since the last WDO filing  
9 (with the Board) in April 2012."

10 24. While investigating an unrelated case on or about December 5, 2012, Graves traveled  
11 to Country Wide Fumigation, Inc. ("Country Wide") and noticed that the fumigation jobs posted  
12 on the wall had Respondent's company (Factor X Terminators) scheduled to complete the  
13 fumigations. Graves determined that four (4) properties were fumigated by Country Wide for  
14 Factor X Terminators as a sub-contractor during the time that Recinos claimed he was not  
15 working, including jobs completed on November 10, 2012, November 15, 2012, November 28,  
16 2012, and November 30, 2012.

17 25. On or about December 7, 2012, Recinos filed multiple WDO activity reports with the  
18 Board indicating that he engaged in the business of structural pest control on twelve (12)  
19 occasions between October 8, 2012, and December 5, 2012. The structural pest control work  
20 completed by Respondent on October 8, 2012 at 15912 Valley Vista Blvd., Encino, Ca. 91436  
21 was completed at a time when Company Registration Certificate No. PR 5228 issued to  
22 Respondent was suspended due to failure to maintain general liability insurance.

23 26. On or about December 31, 2012, Graves received information from Steven Loo with  
24 the Los Angeles County Agricultural Commissioner that despite the fact that Respondent was  
25 engaged in the business of structural pest control during the calendar year 2012, Respondent had  
26 failed to submit monthly use reports to the Los Angeles County Agricultural Commissioner  
27 showing all pesticides that he used in that county.

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27. Also, during the course of the investigation, it was determined by Graves that despite Recinos executing a declaration indicating that he was not engaged in the business of structural pest control during the calendar year 2012, Recinos conducts structural pest control activities from his residence located at 19930 Lassen Street, Chatsworth, Ca. Recinos failed to register his residence address as his address of record with the Board within thirty days as required.

**FIRST CAUSE FOR DISCIPLINE**

**(Failure to Make Records Available for Inspection)**

28. Respondent's company registration and operator license are subject to disciplinary action pursuant to Section 8652 of the Business and Professions Code in that despite repeated requests from the Board, Respondent failed to make inspection records available to Board representatives during business hours. Paragraphs 23-27 are hereby incorporated by reference as though alleged herein.

## SECOND CAUSE FOR DISCIPLINE

**(Failure to File WDO Activity Reports Within Ten Days)**

29. Respondent's company registration and operator license are subject to disciplinary action pursuant to Sections 8516, 8641, and 8518 of the Business and Professions Code and Title 16, California Code of Regulations, section 1996.3 in that Respondent failed to file the addresses of properties inspected with the Board no later than 10 business days after the commencement of an inspection or upon completed work, as follows:

a. Respondent engaged in the practice of structural pest control on the following dates: October 8, 2012, October 25, 2012 (3 separate properties inspected), October 26, 2012, October 29, 2012, November 13, 2012, November 16, 2012, November 19, 2012, November 28, 2012, and November 29, 2012. However, Respondent did not file WDO Activity Reports with the Board for jobs inspected and/or completed on the above listed properties until December 7, 2012 which is more than 10 business days after the commencement of the inspection and/or completion of the work. Paragraphs 23-27 are hereby incorporated by reference as though alleged herein.

b. In addition, Respondent engaged in the practice of structural pest control and failed to submit any WDO Activity Reports on the following properties:

1. 8568 Farralone Avenue, West Hills, Ca. 91304
2. 393 Dalkeith Avenue, Los Angeles, Ca. 90049
3. 6855 Portshead Road, Malibu, Ca. 90265
4. 15230 Rayneta Drive, Sherman Oaks, Ca. 91403
5. 5151 Bellaire Avenue, Valley Village, Ca. 91607
6. 10759 Lindbrook, Los Angeles, Ca. 90024 (Respondent failed to submit to the  
notice of completion on this property)
7. 1874 Benecia Avenue, Los Angeles, Ca. 90024
8. 20521 Rocha Chica Drive, Malibu, Ca. 90265
9. 4950 Ethel Avenue, Sherman Oaks, Ca. 91423
10. 310 Beloit Avenue, Los Angeles, Ca. 90049
11. 12830 Tiara Street, Hollywood, Ca. 91607
12. 12233 Octagon, Brentwood, Ca. 90049
13. 5015 Sunnyslope Avenue, Sherman Oaks, Ca. 91423
14. 4512 Ben Avenue, North Hollywood, Ca. 91607
15. 10580 Wellworth Avenue, Westwood, Ca. 90024

### THIRD CAUSE FOR DISCIPLINE

**(Failure to Notify of Address Change)**

30. Respondent Recino's operator license is subject to disciplinary action under Code sections 8620 and 8641, in that Respondent failed to notify the Board of his change of address within 10 days of the change, in violation of section 1911 of title 16 of the California Code of Regulations. The circumstances are as follows:

a. During the course of the investigation of Respondent, it was determined by the Board that despite Recinos executing a declaration indicating that he was not engaged in the business of structural pest control during the calendar year 2012, Recinos had in fact conducted structural pest control activities from his residence located at 19930 Lassen Street, Chatsworth, Ca. Recinos

1 failed to register his residence address as his address of record with the Board within thirty days  
2 as required. Paragraphs 23-27 are hereby incorporated by reference as though alleged herein.

3 **FOURTH CAUSE FOR DISCIPLINE**

4 **(Misrepresentation of Material Fact)**

5 31. Respondent's company registration and operator's license are subject to disciplinary  
6 action pursuant to Code sections 8641 and 8637 in that Recinos made material misrepresentations  
7 to the Board or its designee as follows:

8 a. On or about December 4, 2012, Recinos signed a declaration under penalty of perjury  
9 that "he (Recinos) had not done any work since the last WDO filing in April 2012" when in fact  
10 he had engaged in the practice of structural pest control in and between October 8, 2012 and  
11 December 5, 2012. Paragraphs 23-27 are hereby incorporated by reference as though alleged  
12 herein.

13 b. On or around June 28, 2012, Recinos represented under penalty of perjury that he had  
14 completed twenty hours of continuing education required for renewal of his license. In fact, that  
15 representation was false. Specifically, during a routine continuing education audit, Recinos was  
16 asked to submit certifications establishing his participation and completion of the twenty hours of  
17 continuing education hours. Upon receipt of twenty certification forms from Recinos, all were  
18 determined to have been fraudulently prepared.

19 **FIFTH CAUSE FOR DISCIPLINE**

20 **(Failure to Submit to County Monthly Use Report of All Pesticides Used)**

21 32. Respondent's company registration and operator license are subject to disciplinary  
22 action pursuant to Code sections 8641 and 8505.17 subdivision (c) in that despite engaging in  
23 structural pest control during 2012, Respondent submitted false reports to the Los Angeles  
24 County Agricultural Commissioner indicating that no pesticides were used by Respondent during  
25 the 2012 calendar year. Paragraphs 23-27 are hereby incorporated by reference as though alleged  
26 herein.

1 **SIXTH CAUSE FOR DISCIPLINE**

2 **(Engaging in the Business of Structural Pest Control While Uninsured)**

3 33. Respondent's company registration and operator license are subject to disciplinary  
4 action pursuant to Code sections 8620, 8641, 8691 and 8695 in that on or about October 8, 2012,  
5 Respondent engaged in the business of structural pest control while his liability insurance policy  
6 had lapsed. Paragraphs 23-27 are hereby incorporated by reference as though alleged herein.

7 **SEVENTH CAUSE FOR DISCIPLINE**

8 **(Failure to Comply with Continuing Education Requirements)**

9 34. Respondent's company registration and operator license are subject to disciplinary  
10 action pursuant to Code sections 8641 in conjunction with California Code of Regulations, title  
11 16, section 1950, in that he was unable to verify completion of continuing education requirements  
12 upon request by the Board. Paragraph 31-b is hereby incorporated by reference as though alleged  
13 herein.

14 **OTHER MATTERS**

15 35. Code section 8620 provides, in pertinent part, that a respondent may request that a  
16 civil penalty of not more than \$5,000 be assessed in lieu of an actual suspension of 1 to 19 days,  
17 or not more than \$10,000 for an actual suspension of 20 to 45 days. Such request must be made  
18 at the time of the hearing and must be noted in the proposed decision. The proposed decision  
19 shall not provide that a civil penalty shall be imposed in lieu of a suspension.

20 36. Pursuant to Code section 8654, if discipline is imposed on Operator License Number  
21 OPR 10926, issued to David Recinos, David Recinos shall be prohibited from serving as an  
22 officer, director, associate, partner, qualifying manager, or responsible managing employee for  
23 any registered company during the time the discipline is imposed, and any registered company  
24 which employs, elects, or associates David Recinos shall be subject to disciplinary action.

25 **PRAYER**

26 WHEREFORE, Complainant requests that a hearing be held on the matters  
27 herein alleged, and that following the hearing, the Structural Pest Control Board issue a decision:  
28

1. Revoking or suspending Company Registration No. PR. 5228, issued to Factor X Terminators, Inc., with David Recinos as President and Qualifying Manager;

2. Prohibiting David Recinos from serving as an officer, director, associate, partner, qualifying manager or responsible managing employee of any registered company during the period that discipline is imposed on Company Registration No. PR. 5228, issued to Factor X Terminators, Inc., with David Recinos as President and Qualifying Manager;

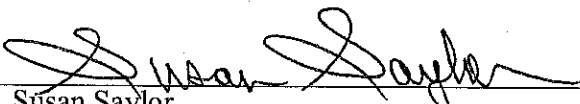
3. Revoking or suspending Operator's License Number OPR 10926, issued to David Recinos;

4. Prohibiting David Recinos from serving as an officer, director, associate, partner, qualifying manager or responsible managing employee of any registered company during the period that discipline is imposed on Operator's License Number OPR 10926, issued to David Recinos;

5. Ordering David Recinos to pay the Structural Pest Control Board the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

6. Taking such other and further action as deemed necessary and proper.

DATED: 12/11/13

  
Susan Saylor  
Registrar/Executive Officer  
Structural Pest Control Board  
Department of Consumer Affairs  
State of California  
*Complainant*

LA2012508435